

Fox News Lawyer Named in Fourth Suit. Now What?

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[Another lawsuit](#) has been filed against Fox News claiming the company has cultivated a toxic culture in which harassment, assault and discrimination are ignored—or worse, cause for retaliation—by the company and its executives. This marks the fourth recently filed suit in which [longtime Fox News in-house attorney Dianne Brandi](#) is a named defendant.

On the face of it, it's fairly unusual to have a top in-house lawyer named in a number of suits, litigation attorneys say, and any company facing such a situation will have hard decisions to make.

In a [complaint filed Sept. 18](#) against Brandi, 21st Century Fox and subsidiary Fox News Network, as well as spokeswoman Irena Briganti and anchor Charles Payne, former Fox News political commentator Scottie Nell Hughes alleged that Payne raped her in 2013 and the network retaliated by blacklisting her and leaking a "false narrative" to the National Enquirer.

"[This] really demonstrates, in my view, that nothing has really changed at 21st Century Fox," said Douglas Wigdor, founding partner at firm Wigdor LLP, who represents Hughes in addition to the plaintiffs in two other suits against Fox News. On the fact that [Brandi](#), who is executive vice president of legal and business affairs at Fox News, is named in the complaints, he said: "It's emblematic of the problems at Fox News when you have a chief [lawyer] engaged in, as we alleged in the complaints, wrongdoing." Neither Fox News nor Brandi immediately responded to requests for comment.

Early Decisions: Investigating and Joint Defense

This latest suit comes on the heels of three others filed in a little over a year that name Brandi as a defendant and revolve around similar facts. An [August 2016 lawsuit](#) filed by former Fox News host Andrea Tantaros alleged Brandi failed to investigate complaints of harassment. In a complaint originally filed in [March of this year](#), which has since been [amended to add plaintiffs](#), a number of current and former employees claimed Brandi and other execs did not take action in response to complaints of a hostile work environment. And in a [complaint filed in April](#), ex-employee Adasa Blanco made similar allegations against Brandi and Fox News.

An early step for a company with its top lawyer named in multiple suits is an internal investigation to determine the

validity of the complaints.

With the suits against Brandi and Fox News, a pattern has emerged in which it's alleged that "when complaints are brought forward through the internal HR process, rather than take action, corporate counsel and HR managers are actively seeking to suppress the claim and are taking actions to damage the reputation and credibility of the claimants," said Sage Knauff, a partner at the Walsworth firm, who is uninvolved with the Fox News litigation and said he has no insight on whether the allegations against Brandi are true.

Typically, it likely wouldn't be necessary for a company to automatically bring in an investigator, according to Knauff. But when there's a named defendant who is meant to enforce compliance with labor laws and company policies, but is "instead being named in these suits ... somebody is going to have to make a decision about bringing in some outside help," he said.

An investigation is likely to include interviewing a number of different parties, such as the complaining party, other witnesses and the accused, said Joel O'Malley, shareholder at Nilan Johnson Lewis, who is also uninvolved in the litigation at Fox News. "I can see a situation where an individual complaint might not rise to a certain level of discipline," he said, "but when taken altogether, there might be a pattern that flows from a particular individual."

"So in this context, when you have someone being named in four lawsuits, then that might certainly be something that Fox is taking a look at," he said.

Another early decision for a corporate defendant when an executive, or any employee, is also named in a suit is how to deal with representation, O'Malley added.

In some cases, joint representation may be beneficial, but if the company's interests conflict with the individual's, separate counsel would be appropriate. Here, there appears to be a mixed approach. In the 2016 case, Brandi and Fox News [have the same counsel](#), according to [court documents](#). In the case filed in March of this year, the two defendants [initially shared counsel](#), but firm DLA Piper was [eventually substituted in](#) as counsel for Fox News. And in the April suit, [Brandi and Fox News](#) had separate counsel from the start. Defense counsel has not yet been listed in the most recent suit.

There could be a number of explanations for why this is the case, O'Malley said, such as a recognition by both parties that their interests are no longer perfectly aligned. It could also suggest, though, that "Fox wishes to appear as if it's creating some separation with Brandi," he said.

Cutting Ties

Another question that may be on the table is when and whether to create distance from Brandi.

"Ultimately, Fox probably is forced to decide whether to stand behind Brandi to present a united front to the barrage of lawsuits, or to cut ties in an effort to show it has excised a bad actor whereas Fox otherwise is innocent," O'Malley said.

When the second, third and fourth suits come along, all including one individual as a defendant, there are surely questions raised within a company about whether the claims have merit, said Andrew Strong, partner at Pillsbury Winthrop Shaw Pittman and former general counsel and compliance officer for the Texas A&M University System. If a company in this situation believes the individual in question acted appropriately, despite allegations made in complaints, the response would probably be to make efforts to show support, said Strong, who is not involved in the Fox suits.